

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	
)	Violations: Title 18, United States Code,
XOCHITL BAKER and)	Sections 1341, 1346, and 2
PATRICK MCGOWAN)	

COUNT ONE

The SPECIAL AUGUST 2006-1 GRAND JURY charges:

1. At times material to this count:

a. Lawson Products, Inc. (“Lawson”) was a publicly traded company located in Des Plaines, Illinois, that sold products to various entities in the public and private sectors. Lawson’s products included hardware, tools, and chemicals. Lawson was the parent company of several subsidiaries. Lawson and its subsidiaries combined to generate approximately \$400 million in sales annually.

b. Drummond American Corporation (“Drummond American”) was a subsidiary of Lawson located in Vernon Hills, Illinois, and sold chemical solutions to the public and private sectors.

c. Lawson sold its products through sales agents. These sales agents generally were permitted by Lawson to negotiate with their customers over the prices their customers would pay for Lawson’s products. As a general rule, sales agents’ commissions were greater if they sold products at higher prices.

d. Until approximately December 15, 2005, Lawson maintained programs through which sales agents would provide items of value to employees of Lawson customers for

purchasing Lawson products. As a general rule, sales agents could provide items of greater value to customers' employees when those employees purchased more products and at higher prices on behalf of their employers.

e. Keogh, Inc. ("Keogh") was a business located in Lake Bluff and Woodstock, Illinois, that administered a program for Lawson called "Winners Choice." Under this program, Keogh issued checks made payable to the recipients and to retail stores designated by the recipients. Recipients could then use these checks to purchase items in the designated retail stores. There were several steps that occurred before Keogh would issue these checks:

- i. Cold Certificates. The first step was for sales agents to place orders for "cold certificates" from Lawson, which would then inform Keogh of the orders. The sales agents would designate the recipient, the mailing address, the number of cold certificates, and the denomination of the cold certificates. Although the cold certificates were limited to \$10 and \$25 increments, sales agents could order multiple cold certificates totaling far in excess of \$25 to be sent to a recipient.
 - ii. Redemption of Cold Certificates. Next, Keogh would ship, via mail or courier, the cold certificates to the recipient at the designated address. Along with the cold certificates, Keogh sent a list of retail stores participating in the Winners Choice program. To redeem the cold certificates, the recipient would fill out an order form by selecting a retail store and the address where Keogh should send the check. The recipient then sent the order form back to Keogh through the mail or online.
 - iii. Hot Certificates. Once the recipient had redeemed the cold certificates, Keogh mailed one or more checks, also known as "hot certificates," to the recipient. While each check was written for \$50 or less, Keogh would mail multiple checks in one envelope if the total redemption of cold certificates exceeded \$50. The checks issued by Keogh would list two payees: (1) the individual recipient and (2) the retail store designated by the individual recipient. After receiving the hot certificate or certificates, the individual recipient could use the check at the designated retail store.
- f. Defendant **XOCHITL BAKER** was a sales agent with Drummond American

and was responsible for selling products to Drummond American customers located in the Los Angeles and Long Beach, California area.

g. The City of Long Beach was a municipality located in southern California. Pursuant to the California Penal Code §§ 68 and 70 and the City of Long Beach's policies, employees of the City of Long Beach were prohibited from:

- i. asking for, receiving, or agreeing to receive any bribe, upon an agreement or understanding that their opinion and action upon any matter then pending, or that may be brought before them in their official capacity, shall be influenced by said bribe;
- ii. asking for, receiving, or agreeing to receive any gratuity or reward, or any promise thereof, except as may be authorized by law, for doing an official act;
- iii. making, participating in making, or attempting to influence any government decision if it was reasonably foreseeable that the decision would have a material financial effect on that individual's economic interests;
- iv. having a financial interest in any City of Long Beach contract where the individual's duties called on that individual to participate in any way or at any stage in the approval of the contract;
- v. taking action for the purpose of benefitting the official or employee personally.

h. Officials and employees of the City of Long Beach were also required to file statements of economic interest publicly disclosing income and gifts exceeding \$50.

i. Defendant **PATRICK MCGOWAN** was the building services supervisor for the City of Long Beach. In that capacity, **PATRICK MCGOWAN** was responsible for the overseeing the maintenance of the City of Long Beach's public buildings. As part of his duties as the building services supervisor, **PATRICK MCGOWAN** purchased chemical solutions on behalf of the City of Long Beach. Based on his position as the building services supervisor, **PATRICK**

MCGOWAN owed a duty of honest services to the City of Long Beach, which included the duty to provide his employer with undivided loyalty that was free from conflict of interest between his personal interests and the public interests of the City of Long Beach.

2. Beginning no later than in or about April 1998 and continuing until at least April 22, 2002, at Des Plaines and Woodstock, in the Northern District of Illinois, and elsewhere,

**XOCHITL BAKER and
PATRICK MCGOWAN,**

defendants herein, together with others known and unknown to the Grand Jury, devised and intended to devise, and participated in, a scheme and artifice to defraud the City of Long Beach of money, property, and the intangible right to the honest services of its employees, and to obtain money and property, by means of materially false and fraudulent pretenses, representations, and promises, and by material omissions, as further alleged herein.

3. It was part of the scheme that **BAKER** offered and agreed to provide **MCGOWAN** with Winners Choice checks in order to induce **MCGOWAN** to purchase, and to reward him for purchasing, merchandise such as chemical solutions, from Drummond American on behalf of the City of Long Beach.

4. It was further part of the scheme that after **MCGOWAN** purchased merchandise from Drummond American, **BAKER** ordered Winners Choice cold certificates for **MCGOWAN** from Keogh through Lawson. As a general rule, **BAKER** ordered a larger amount of Winners Choice cold certificates for **MCGOWAN** when **MCGOWAN** had caused the City of Long Beach to make purchases of a greater dollar value from **BAKER**.

5. It was further part of the scheme that in ordering Winners Choice cold certificates through Lawson, **BAKER** misrepresented to Lawson the employment of **MCGOWAN**, to make

it appear that **MCGOWAN** was an employee of a private, rather than government, entity.

6. It was further part of the scheme that **BAKER** caused Keogh to mail Winners Choice certificates and checks to **MCGOWAN**'s home address to conceal from the City of Long Beach the fact that **BAKER** had provided items of value to **MCGOWAN**.

7. It was further part of the scheme that **MCGOWAN** redeemed the Winners Choice certificates and caused Keogh to mail Winners Choice checks back to **MCGOWAN**.

8. It was further part of the scheme that **MCGOWAN** used the Winners Choice checks to purchase items for his own use.

9. It was further part of the scheme that **BAKER** caused Keogh to mail Winners Choice cold certificates and checks to the home addresses of **MCGOWAN** to conceal from the City of Long Beach the fact that **BAKER** had provided items of value to **MCGOWAN**.

10. It was further part of the scheme that **MCGOWAN** knowingly failed to file statements of economic interest publicly disclosing his receipt of Winners Choice checks.

11. It was further part of the scheme that **BAKER** and **MCGOWAN** misrepresented, concealed and hid, and caused to be misrepresented, concealed and hidden, the purposes of and acts done in furtherance of the aforementioned scheme.

12. As a result of the scheme, **BAKER** obtained substantial commissions on sales to the City of Long Beach, and fraudulently provided **MCGOWAN** with approximately \$11,000 to which he was not entitled.

13. On or about April 22, 2002, at Woodstock, in the Northern District of Illinois,

**XOCHITL BAKER and
PATRICK MCGOWAN,**

defendants herein, for the purpose of executing the above-described scheme and attempting to do so, knowingly caused to be placed in an authorized depository for mail matter, to be sent and delivered by the United States Postal Service, according to the directions thereon, an envelope to **PATRICK MCGOWAN** containing approximately \$375 worth of Winners Choice checks, addressed to **PATRICK MCGOWAN's** home address in the Long Beach, California.

In violation of Title 18, United States Code, Sections 1341, 1346, and 2.

FORFEITURE ALLEGATIONS

The SPECIAL AUGUST 2006-1 GRAND JURY further alleges:

1. The allegations contained in Count One of this Indictment are realleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. As a result of their violation of Title 18, United States Code, Sections 1341, as alleged in the foregoing Indictment,

**XOCHITL BAKER and
PATRICK MCOGWAN,**

defendants herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section, 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all right, title and interest in property, real and personal, which constitutes and is derived from proceeds traceable to the charged offenses.

3. The interests of the defendants subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) include but are not limited to:

a. approximately \$167,000, which represents all proceeds, including commissions, that defendant **BAKER** received from selling merchandise to the City of Long Beach;

b. approximately \$11,000, which represents all proceeds, including Winners Choice checks, that defendant **MCGOWAN** received from purchasing merchandise from **BAKER** on behalf of the City of Long Beach;

4. If any of the property subject to forfeiture and described above, as a result of any act or omission of the defendants:

- a. Cannot be located upon the exercise of due diligence;
- b. Has been transferred or sold to, or deposited with, a third party;
- c. Has been placed beyond the jurisdiction of the Court;
- d. Has been substantially diminished in value; or
- e. Has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code,

Section 2461(c).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY